

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 22-cr-203 (ADM/TNL)

Plaintiff,

v.

ORDER

Freddy Rivera (1), and
Alejandro Ray Seals (2),

Defendants.

This matter is before the Court on Defendant Freddy Rivera’s Motion to Extend Time to File Motions (ECF No. 28) and Amended Motion to Extend Time to File Motions (ECF No. 38). Defendant also filed a Statement of Facts in Support of Exclusion of Time Under Speedy Trial Act (“Statement of Facts”). (ECF No. 39.)

Defendant first requested a two-week extension of time to file motions. (ECF No. 28.) Defendant then filed an amended motion, requesting a 30-day extension of time to file motions. (ECF No. 38.) Specifically, Defendant asks the Court to extend his motion filing date from November 23 to December 23, 2022. (ECF No. 39 at 1.) Defense counsel notes that he “is out of the Country and needs additional time to review the discovery.” (ECF No. 38.) In his Statement of Facts, Defendant requests that this period of time be excluded from the time in which he would otherwise be brought to trial under the Speedy Trial Act. (ECF No. 39 at 1.) The Government does not object to the motion. (ECF No. 38.)

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendant in a speedy trial and such continuance is necessary to provide Defendant and his counsel reasonable time necessary for effective preparation and to make efficient use of the parties' resources. The Court will therefore grant an extension of the motion filing date to December 27, 2022,¹ and continue the motions hearing and trial dates accordingly. **Because “[e]xclusions of time attributable to one defendant apply to all codefendants,”** *United States v. Mallett*, 751 F.3d 907, 911 (8th Cir. 2014) (quotation omitted); *see also United States v. Arrellano-Garcia*, 471 F.3d 897, 900 (8th Cir. 2006), **this period of time will be excludable as to all Defendants, including Alejandro Seals.**

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant Freddy Rivera's Motion to Extend Time to File Motions (ECF No. 28) is **DENIED AS MOOT** in light of Defendant filing his Amended Motion to Extend Time to File Motions (ECF No. 38).
2. Defendant Freddy Rivera's Amended Motion to Extend Time to File Motions (ECF No. 38) is **GRANTED**.
3. The period of time from **November 23 through December 27, 2022**, shall be excluded from Speedy Trial Act computations in this case.
4. All motions in the above-entitled case shall be filed and served consistent

¹ While Defendant requested a motion filing deadline of December 23, 2022, the District Court is closed on December 23 and 26, 2022. The Court will therefore set the motion filing deadline for December 27, 2022.

with Federal Rules of Criminal Procedure 12(b) and 47 on or before **December 27, 2022**.²

D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Tony N. Leung.³

5. **Counsel shall electronically file a letter on or before December 27, 2022, if no motions will be filed and there is no need for a hearing.**

6. All responses to motions shall be filed by **January 11, 2023**. D. Minn. LR 12.1(c)(2).

7. Any Notice of Intent to Call Witnesses⁴ shall be filed by **January 11, 2023**. D. Minn. LR 12.1(c)(3)(A).

8. Any Responsive Notice of Intent to Call Witnesses⁵ shall be filed by **January 17, 2023**. D. Minn. LR 12.1(c)(3)(B).

9. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The Government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary;
or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

² “Before filing a motion under Fed. R. Crim. P. 12(b), the moving party must confer with the responding party. The parties must attempt in good faith to clarify and narrow the issues in dispute.” D. Minn. LR 12.1(b).

³ U.S. Mail or hand-deliver to 300 South Fourth Street, Suite 9W, Minneapolis, MN 55415.

⁴ “When a party intends to call witnesses at a hearing on a motion under Fed. R. Crim P. 12(b), the party must file a notice within 35 days after the arraignment. The notice must identify the number of witnesses whom the party intends to call, the motion or motions that each witness will be addressing, and the estimated duration of each witness’s testimony.” D. Minn. LR 12.1(c)(3)(A).

⁵ “If after reviewing a notice under LR 12(c)(3), a party intends to call witnesses at the same hearing, that party must file a responsive notice within 38 days after the arraignment. The responsive party must identify the number of witnesses whom the party intends to call, the motion or motions each witness will be addressing, and the estimated duration of each witness’s testimony.” D. Minn. LR 12.1(c)(3)(B).

10. If required and subject to further order of the Court, the motions hearing shall be heard before Magistrate Judge Tony N. Leung on **January 24, 2023**, at **1:30 p.m.**, in **Courtroom 9W**, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota 55415. D. Minn. LR 12.1(d).

11. **TRIAL:**

a. **IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT:**
the following trial and trial-related dates are:

All voir dire questions and jury instructions must be submitted to District Judge Ann D. Montgomery on or before *a date to be determined*.

This case must commence trial on *a date to be determined* before District Judge Montgomery in Courtroom *to be determined*, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota.

b. **IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Montgomery to confirm the new trial date.**

Dated: December 2, 2022

s/Tony N. Leung
TONY N. LEUNG
United States Magistrate Judge
District of Minnesota

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